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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/901,024	07/10/2001	Yoshikatsu Ooi	1114-167	6305

7590 09/20/2004

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EXAMINER	
MOORTHY, ARAVIND K	

ART UNIT	PAPER NUMBER
2131	

DATE MAILED: 09/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/901,024	OOI, YOSHIKATSU	
	Examiner	Art Unit	
	Aravind K Moorthy	2131	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *17 August 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-11* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-11* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *10 July 2001* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *2, 4, 5*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-11 are pending in the application.

2. Claims 1-11 have been rejected.

Specification

3. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

4. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract exceeds the 150-word limit.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002

do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

5. Claims 1, 3, 9 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Hashimoto et al U.S. Patent No. 5,802,271.

As to claim 1, Hashimoto et al discloses a communication apparatus for accessing a server connected through a network and fetching data stored in the server, comprising:

setting means for setting a time for accessing the server based on inputted starting time data, terminating time data, and number of times data or time interval data [column 5, lines 28-50];

storage means for storing the time setting by the setting means on a weekly basis or daily basis [column 6 line 55 to column 7 line 8]; and

control means for determining the time of accessing the server based on setting data stored in the storage means and the present day of the week or date, and fetching data stored in the server by accessing the server at the determined time [column 7 line 9 to column 8 line 15].

As to claim 3, Hashimoto et al discloses that the storage means sets and stores the access time on a day of the week basis or date basis for plural servers [column 8 line 36 to column 9 line 4]. Hashimoto et al discloses that the control means gets access on the basis of the setting data stored in the storage means to each of the plural servers [column 8 line 36 to column 9 line 4].

As to claim 9, Hashimoto et al discloses a communication apparatus able to be connected to the Internet through a server connected through a public line network comprising:

recalling means for repeating a connecting request to a desired calling destination when no connection to this calling destination can be performed [column 8, lines 36-58]; and

setting means for individually setting a repeating interval of the connection request by the recalling means depending on when the desired calling destination is a server or not [column 8 line 59 to column 9 line 23].

As to claim 10, Hashimoto et al discloses that the setting means sets the repeating interval of the connecting request by the recalling means for every individual server when plural connectable servers exist [column 8, lines 36-58].

6. Claims 5 and 6 are rejected under 35 U.S.C. 102(e) as being anticipated by Regelski et al U.S. Patent No. 6,738,772 B2.

As to claim 5, Regelski et al discloses a communication apparatus for accessing a server connected through a network and fetching data stored in the server comprising:

setting means for determining an access time to the server on the basis of inputted starting time data, terminating time data, and number of times data or time interval data [column 6 line 43 to column 7 line 19];

storage means for storing the time set by the setting means and a time zone for inhibiting access to the server [column 6 line 43 to column 7 line 19]; and

control means for determining the access time to the server on the basis of setting data stored in the storage means, and fetching data stored in the server by accessing the

server at the determined time [column 7, lines 20-37], and getting in the access-inhibited time zone, no access to the server on the basis of the setting data stored in the storage means [column 6 line 43 to column 7 line 19].

As to claim 6, Regelski et al discloses that the storage means stores the access time and the access inhibited time zone for each of plural servers [column 6 line 43 to column 7 line 19]. Regelski et al discloses that the control means determines the access time to each of the plural servers on the basis of the setting data stored in the storage means [column 6 line 43 to column 7 line 19].

7. Claims 7 and 8 are rejected under 35 U.S.C. 102(e) as being anticipated by Ohzora et al U.S. Patent No. 5,940,865.

As to claim 7, Ohzora et al discloses a communication apparatus for accessing a server connected through a network and fetching data stored in the server comprising:

setting means for determining an access time to the server on the basis of inputted starting time data, terminating time data and number of times data [column 5, lines 11-26];

storage means for storing the time determined by the setting means [column 5, lines 11-26]; and

control means for accessing the server at the time stored in the storage means and fetching data stored in the server [column 5, lines 11-26],

wherein the setting means determines the time for accessing the server by avoiding any access-inhibited time zones to the server when the access-inhibited time zones have been inputted [column 5, lines 11-26].

As to claim 8, Ohzora et al discloses that the setting means determines the access time to each server by avoiding each inhibiting time zone inputted for each of the plural servers [column 6 line 43 to column 7 line 19]. Ohzora et al discloses that the control means accesses each of the plural servers on the basis of the setting data stored in the storage means [column 6 line 43 to column 7 line 19].

8. Claim 11 is rejected under 35 U.S.C. 102(e) as being anticipated by Mayton et al U.S. Patent No. 5,940,865.

As to claim 11, Mayton et al discloses a communication apparatus able to be connected to the Internet through a server connected through a public line network comprising:

automatic receiving means for fetching data stored in the server by periodically performing connection to the server [column 7 line 61 to column 8 line 26]; and

recalling means for repeating a connection request to a desired calling destination when no connection to this calling destination can be performed [column 7 line 61 to column 8 line 26],

wherein in a repeating state of the connecting request to the desired calling destination, the recalling means stops the repetition of the connecting request to the desired calling destination being executed when the automatic receiving means is fetching the data [column 7 line 61 to column 8 line 26].

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

9. Claims 2 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hashimoto et al U.S. Patent No. 5,802,271 as applied to claim 1 above, and further in view of Inohara et al U.S. Patent No. 6,256,747 B1.

As to claims 2 and 4, Hashimoto et al does not teach that the storage means stores a time zone or date for inhibiting access to the server. Hashimoto et al does not teach that the control means makes no access to the server based on setting data stored in the storage means, in the access-inhibited time zone or date. Hashimoto et al does not teach that the storage means sets and stores an access-inhibited time zone or date for each of plural servers. Hashimoto et al does not teach that the control means accesses each of the plural servers according to the setting data stored in the storage means.

Inohara et al teaches that the storage means stores a time zone or date for inhibiting access to the server [column 19, lines 1-36]. Inohara et al teaches that the control means makes no access to the server based on setting data stored in the storage means, in the access-inhibited time zone or date [column 19, lines 1-36]. Inohara et al teaches that the storage means sets and stores an access-inhibited time zone or date for each of plural servers [column 19, lines 1-36]. Inohara et al teaches that the control means accesses each of the plural servers according to the setting data stored in the storage means [column 19, lines 1-36].

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Hashimoto et al so that the storage means would have stored a time zone or date for inhibiting access to the server. The control means would have made no access to the server based on setting data stored in the storage means, in the

access-inhibited time zone or date. The storage means would have set and stored an access-inhibited time zone or date for each of plural servers. The control means would have accessed each of the plural servers according to the setting data stored in the storage means.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Hashimoto et al by the teaching of Inohara et al because it allows the server to de anticipatory validation [column 19, lines 1-36].

Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aravind K Moorthy whose telephone number is 703-305-1373. The examiner can normally be reached on Monday-Friday, 8:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz R Sheikh can be reached on 703-305-9648. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Aravind K Moorthy
September 14, 2004

AYAZ SHEIKH
SUPERVISORY PATENT EXAMINER
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